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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,646	09/10/2003	David L. Multer	FUSN1-01002US1	3667

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EXAMINER	
LUU, LE HIEN	

ART UNIT	PAPER NUMBER
2141	

MAIL DATE	DELIVERY MODE
06/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/659,646	MULTER, DAVID L.	
	Examiner	Art Unit	
	Le H. Luu	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09/10/03 - 04/02/04*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *38-73* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *38-73* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09/10/03* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *04/02/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Claims 38-73 are presented for examination.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. New corrected drawings are required in this application because some drawings are informal, illegible, poor quality for publication. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 48, "said management server" lacks positive antecedent basis. For purpose of examination, Examiner assumes claim 48 depends on claim 47.

Appropriate correction is required.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102

that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> or
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 38-46 and 50-73 are rejected under 35 U.S.C. § 102(e) as being anticipated by Balcha et al. (Balcha) patent no. 6,233,589.

8. As to claim 38, Balcha teaches the invention as claimed, including an system for synchronizing data between a first system and a second system, comprising:

a first sync engine on the first system interfacing with application data and a

previous state of application data associated with the first system to generate a first change log (col. 5 lines 4-21; col. 7 line 44 – col. 8 line 18);

a data store coupled to network and in communication with the first and second systems storing at least one change log from the first sync engine (col. 5 lines 22-49); and

a second sync engine on the second system coupled to receive the first change log from the data store, and interfacing with application data on the second system to update said data o the second system with difference information in said first change log (col. 4 lines 1-16; col. 15 lines 29-33).

9. As to claims 39-43 and 51-52, Balcha teaches the change log identifies changes for a particular user; a third device having a third sync engine interfacing with application data and previous state of application data associated with the application data on the third device to generate a second change log; data store stores said first and said second change logs; second sync engine is coupled to receive the first and second change logs from the data store and interfaces with application data on the second system to update data on the second system with difference information in said first and second change logs; said first and second change logs contain difference information for a particular user; the first system includes a processing device and a data storage apparatus, and the previous state of data is provided on the data storage apparatus; the previous state of data is provided on a storage device in communication with the first system (col. 4 lines 1-16; col. 5 lines 4-67; col. 7 line 44 – col. 8 line 18; col.

15 lines 29-33).

10. As to claims 44-46, Balcha teaches the change log is transmitted to the data store at a first point in time, and received from the data store at a second, subsequent point in time; said second sync engine interfaces with said data on the second system to provide a third change log; the first sync engine couples to the data store to retrieve the third change log and interfaces with the data on the first system to update said data on the first system with said third change log (col. 4 lines 1-16; col. 5 lines 4-67; col. 7 line 44 – col. 8 line 18; col. 15 lines 29-33).

11. As to claim 50, Balcha teaches each said sync engine comprises: an application data interface; and a difference transaction generator (col. 7 line 44 – col. 8 line 18).

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 47-49 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Balcha et al. (Balcha) patent no. 6,233,589.

14. As to claims 47-48, Balcha teaches the invention substantially as claimed as

discussed above; However, Balcha does not explicitly teach a management server.

Official Notice is taken that authentication server is well-known.

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the well-known teachings with the teachings of Balcha to provide a management server to authorize access of difference information on the data store by the first and second sync engines because it would prevent unauthorized users from accessing the data.

15. As to claim 49, Balcha teaches said data comprises changes to a previous state of the data, and said difference information comprises said changes in an encoded, universal format (col. 5 line 55 – col. 6 line 15)

16. Claims 53-73 have similar limitations as claims 38-46 and 50-52; therefore, they are rejected under the same rationale.

17. Claims 38-73 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,671,757. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention has similar limitations as the cited claims of the U.S. patent.

18. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985) *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

19. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

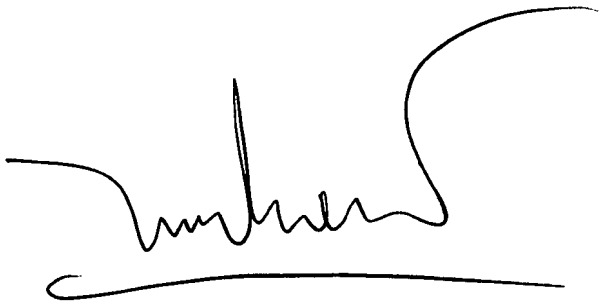
20. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LE HIEN LUU
PRIMARY EXAMINER